

LAFCO
Meeting Date: April 4, 2007
TO: LAFCO
FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst
SUBJECT: **LAFCO'S AGRICULTURAL MITIGATION POLICIES**
Agenda Item # 4

STAFF RECOMMENDATION

1. CEQA Action

- a. As Lead Agency, adopt Negative Declaration based on findings that the Negative Declaration was prepared in accordance with law and reflects the Local Agency Formation Commission of Santa Clara County 's independent judgment and analysis; that LAFCO has considered the Negative Declaration and all comments received during the comment period; and that there is no substantial evidence in the record that the Project will have a significant impact on the environment. (see Attachment B for Negative Declaration and Initial Study)
- b. Designate the LAFCO Executive Officer as the location and custodian of the documents and other materials that constitute the record of proceedings on which this decision is based.

2. Project

- a. Adopt Agricultural Mitigation Policies (see Attachment A) to be effective immediately

DEVELOPMENT OF REVISED DRAFT AGRICULTURAL MITIGATION POLICIES

Background

In February 2006, LAFCO held a planning workshop that included a presentation by the Deputy County Agricultural Commissioner on Agriculture in Santa Clara County and LAFCO discussed its role in preserving agricultural lands. LAFCO, at its April 2006 meeting, directed staff to draft agricultural mitigation policies for LAFCO proposals that would result in the conversion of

prime agricultural lands to urban uses in order to ensure that LAFCO's agricultural mitigation expectations and requirements are clear to applicants, cities, special districts and affected property owners. Staff was directed to prepare the policies for the Commission's consideration and approval in the fall of 2006.

Public Review, Comment and Revision of the Draft Policies

August 2006 through October 2006

The Draft Agricultural Mitigation Policies were first circulated on August 14, 2006, for review and comment and scheduled for a public hearing for October 11, 2006. A workshop was held on August 28th to discuss the Draft Policies and take comment. To allow affected agencies and stakeholders additional time to provide comments and to allow LAFCO staff additional time to consider and address stakeholder concerns, the October Public hearing was postponed to December 13th. At the October 11, 2006 LAFCO meeting, staff discussed the October 2006 LAFCO staff report, provided an update and discussed the draft policies. The commission took public testimony and discussed the issues. LAFCO staff then revised the Draft Policies and released the Revised Draft Policies for public review and comment on October 26th with comments due on November 28th.

November 2006

Staff then held a workshop to discuss the policies on November 13, 2006 and another workshop in South County (as requested by the City of Gilroy) on November 27th. In addition, staff met with individual and stakeholder groups and made a presentation to the Gilroy Chamber of Commerce on November 17th.

December 2006

On December 6, 2006, the Revised Draft Policies were released for public review and comment. The majority of the revisions found in the October 26, 2006 and December 6, 2006 Revised Draft Policies were based directly on recommendations or suggestions made by stakeholders. Even with the revisions to the Draft Policies relating to "Timing and Fulfillment of Mitigation," many stakeholders remained concerned about these policies as mentioned in the December LAFCO staff report.

LAFCO, at its December 13, 2006 Meeting, formed a Subcommittee (consisting of Commissioners Don Gage and Susan Vicklund-Wilson) to recommend policies relating to two sections of the Revised Draft Policies namely: "Plan for Mitigation" and "Timing and Fulfillment of Mitigation" to the full Commission for final action. LAFCO limited the scope of the Subcommittee meeting to those two issues, but indicated that if additional issues were to arise at the

Subcommittee meeting, the Subcommittee could seek the full Commission's approval to widen the scope of its review.

January 24, 2007 Subcommittee Meeting

The Subcommittee met on January 24, 2007 in Morgan Hill and discussed revisions to the two sections and accepted input from stakeholders. The subcommittee directed staff to bring the proposed revisions to the two sections to the full commission in February and provide the full commission with a summary of issues raised at the subcommittee meeting.

February 2007

LAFCO, at its February 14, 2007 Meeting directed staff to revise the Draft Policies to:

- Include the proposed revisions to the two sections ("Timing and Fulfillment" and "Plan for Mitigation"),
- Clarify that the policies are not requirements, and
- Include statements that the in-lieu fees should include provisions for adjustment of the fees in order to reflect potential changes in land values at the time of actual payment.

LAFCO directed staff to circulate and make the Revised Draft Policies available on the LAFCO website for public review, together with the CEQA analysis. LAFCO also directed staff to hold a second Subcommittee meeting in South County to discuss the Revised Draft Policies and to obtain input from stakeholders, and to hold a public hearing on April 4, 2007 to consider adoption of the Policies.

March 13, 2007 Subcommittee Meeting

The Subcommittee met on March 13, 2007 in Morgan Hill and discussed the Revised Draft Policies and accepted input from stakeholders. Please see **Attachment C** for list of Subcommittee meeting attendees. The Subcommittee directed staff to bring the Revised Draft Policies to the full commission in April and to provide the full commission with a summary of issues raised at the subcommittee meeting.

Confirmation of LAFCO's Authority And Clarification on Use of LAFCO's Agricultural Mitigation Policies

At the March 13, 2007 Subcommittee Meeting, the issues of LAFCO's authority relating to agricultural mitigation and LAFCO's use of its Agricultural Mitigation Policies were raised by some stakeholders.

Following the March 13th subcommittee meeting, LAFCO staff discussed the issues raised at the meeting regarding how the policies would be implemented with LAFCO Counsel. Counsel confirmed that LAFCO has the authority to adopt the proposed policies. These policies will provide guidance to applicants on how agricultural mitigation should be provided. LAFCO will not require or condition the application on specific mitigation for a proposal impacting agricultural lands.

LAFCO looks at many factors in its evaluation of a proposal and makes its decision on whether to approve a boundary change based on balancing all the factors. LAFCO will consider impacts to agricultural lands along with the many other factors identified in LAFCO policies such as infill opportunities, adequate water supply, efficient services, logical boundaries etc. Existing USA policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to the conversion of agricultural lands. In approving or denying a project, LAFCO will weigh and balance these multiple considerations. While agricultural mitigation will be a very important consideration in LAFCO's review of proposals, LAFCO will consider the issue of impacts to agricultural lands and mitigation based on the totality of all the factors. LAFCO's decision on the proposal will not be based solely on the issue of impacts to agriculture or consistency with LAFCO's agricultural mitigation policies.

LAFCO Counsel has confirmed that LAFCO has the ability to deny a proposal if the application will not result in orderly growth and development based on LAFCO's policies. So, even if an application involving agricultural lands provides mitigation (regardless of whether the mitigation is consistent with the agricultural mitigation policies), other LAFCO policies need to be considered, and LAFCO's decision will be made based on the whole picture and consideration of all the policies.

Final Proposed Revisions Are Minor and of a Non-Controversial Nature

The following minor revisions were made to the Revised Draft Policies in order to provide greater clarity.

1. Background section was revised. The phrase "encourage orderly growth and development" was added to the sentence regarding LAFCO's mission.
2. Policy 7 was revised. The word "promotion" was replaced with the word "maintenance."
3. Policy 7(c)(2) was revised. The word "promoting" was replaced with the word "maintaining."

4. Policy 9(b) was revised to state that the mitigation lands should be located within "cities' spheres of influence."
5. Policy 10 was revised to state that LAFCO encourages cities with LAFCO proposals impacting agricultural lands to adopt measures to "protect" adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. The previous version of the Draft Policies used the word "preserve" rather than "protect." Some stakeholders read this to mean that LAFCO was encouraging the use of permanent agricultural buffers. Buffers are listed as one example of such types of measures in the policies. The policies do not recommend a specific type of buffer. The concern for LAFCO is that the buffers or other measures be effective.
6. Draft Policies 17 and 18 were consolidated into Policy 16a and 16b.

Issues Raised at the March 13, 2007 Subcommittee Meeting

The following is a list of issues raised by stakeholders at the subcommittee meeting.

1. ***Are grazing lands in Santa Clara County considered prime agricultural lands under the Cortese Knox Hertzberg Act?***

The Revised Draft Policies include a definition for prime agricultural lands as defined by the Cortese Knox Hertzberg Act (CKH Act). The definition does include land where an acre of grazing land can produce sufficient forage to sustain one mature cow of approximately 1,000 pounds and a calf as old as six months, or their equivalent, for an entire year (see Policy 6c). LAFCO staff anticipates that the applicability of this Policy will be extremely limited in Santa Clara County because the typical annual carrying capacity of rangeland in Santa Clara County varies from 12 acres per animal unit on productive grasslands to 30 acres or more per animal unit in areas with dense trees and brush.

However, it is possible that grazing lands may qualify as prime agricultural lands under the CKH Act's definition, based on their soil class and Storie Index (see Policies 6a and 6b) or productivity (see Policies 6d and 6e).

2. ***Should agricultural mitigation be a one-time payment or multiple payments over time?***

The Revised Draft Policies do not indicate a specific payment process for fulfilling agricultural mitigation. It is expected that the city and the agricultural conservation entity will negotiate an acceptable payment

amount and/or process that will allow them to meet the intent of LAFCO's Agricultural Mitigation Policies.

3. *Why don't the policies acknowledge that agricultural mitigation may not be warranted under certain situations?*

The Revised Draft Policies recommend the provision of agricultural mitigation, as specified in the Draft Policies, for all LAFCO applications that impact or result in a loss of prime agricultural lands as defined in Policies 6a through 6e. If a city believes that agricultural mitigation is not warranted for a specific project, the city should provide information supporting this conclusion when it submits a proposal to LAFCO for LAFCO's consideration.

4. *Should agricultural mitigation be provided for Out of Agency Contracts for Services?*

If an out of agency contract for services proposal does not result in the conversion of agricultural lands or does not impact adjacent agricultural lands, LAFCO's Agricultural Mitigation Policies would not apply.

5. *Should agricultural mitigation be provided for lands that are already developed or for areas that include some lands that are already developed?*

If a proposal does not result in the conversion of agricultural lands or does not impact adjacent agricultural lands, LAFCO's Agricultural Mitigation Policies would not apply.

6. *Can agricultural mitigation lands be located outside of a City's Sphere of Influence Boundary (SOI)?*

The vast majority of prime agricultural lands are located within a city's sphere of influence boundary. Therefore, LAFCO's Revised Draft Policies state that agricultural mitigation should result in the preservation of land that would be located within cities spheres of influence boundaries. However, the Revised Draft Policies also state that variations from the Policies should be accompanied by information explaining the adequacy of the proposed mitigation. The concern for LAFCO is that the mitigation is effective.

7. *Can agricultural buffers be temporary?*

LAFCO's Revised Draft Policies encourage cities with LAFCO proposals impacting agricultural lands to adopt measures to protect adjoining agricultural lands, to prevent their premature conversion to other uses and to minimize potential conflicts between the proposed urban development

and adjacent agricultural uses. Buffers are listed as one example of such types of measures in the policies. The policies do not recommend a specific type of buffer. The concern for LAFCO is that the buffers or other measures be effective.

8. *Why is LAFCO not a party to the agricultural mitigation agreement?*

LAFCO's role is to evaluate proposals for boundary changes against its established policies and to approve and deny proposals. Therefore, entering into such an agreement is not recommended.

9. *Should agricultural lands intended for easements, right-of-ways, and roads be deducted from the agricultural mitigation amount?*

In general, agricultural lands intended for easements, right-of ways, and roads to support a proposed urban development should not be deducted from the area to be mitigated. However, this question can best be considered and answered on a case-by-case basis and may require site specific information.

10. *Why is the California Department of Conservation's Important Farmland Map not included in the policies?*

The CKH Act's definition of prime agricultural land does not refer to the Important Farmland Map, therefore LAFCO's Revised Draft Policies do not refer to this map.

11. *Can a private conservation agency qualify as an agricultural conservation entity under LAFCO's Draft Agricultural Mitigation Policies?*

Some stakeholders have expressed that a public agency should exclusively handle agricultural mitigation in order to assure public accountability and permanence of the agricultural conservation entity. The Revised Draft Policies do not prohibit using a private conservation agency as an agricultural conservation entity. LAFCO's Policies encourage the consideration of agricultural conservation entities that meet certain recommended criteria (see Policies 11a - 11c). Cities may require and/or encourage the use of a specific conservation entity or type of entity.

12. *How should agricultural mitigation costs be determined for large-scale project?*

LAFCO's Revised Draft Policies do not specify a methodology for determining the cost of program administration, land management, monitoring, enforcement and promotion of agriculture on the mitigation

lands. It is expected that the city and/or agricultural conservation will determine the costs through a transparent and legal process.

13. *Can agricultural mitigation be provided through purchasing credits in a mitigation bank?*

Mitigation banking is commonly used for wetlands and other habitat restoration and preservation in many counties. The use and effectiveness of mitigation banks for fulfilling agricultural mitigation is unknown in Santa Clara County. LAFCO's Revised Draft Policies do not prohibit the use of mitigation banks. Again, LAFCO's Policies encourage the consideration of agricultural conservation entities that meet certain recommended criteria (see Policies 11a - 11c). Cities may require and/or encourage the use of a specific conservation entity or type of entity.

14. *Since the payment of in-lieu fees may not occur for some time after LAFCO approval, LAFCO is recommending that the fees be adjusted to reflect the land values at the time of actual payment. Some stakeholders have commented that the fees should instead reflect the land values at time of actual acquisition of land / easements by the agricultural conservation entity.*

Staff acknowledges that the actual acquisition of agricultural land may not occur immediately after payment of in-lieu fees to an agricultural conservation entity. However, the actual acquisition of agricultural land may be a complicated process with many factors affecting its timing. Therefore, staff suggests that the agricultural entity take this issue into consideration when developing a methodology for setting the in-lieu fees. The agricultural entity may analyze if there is a difference between the rise in land costs and the value of interest earned over the period of time it takes to acquire the agricultural land and factor that difference into the in-lieu fees.

ENVIRONMENTAL ANALYSIS

LAFCO, as Lead Agency, conducted an Initial Study (see Attachment B) in order to determine if the project would have a significant impact on the environment. The Initial Study outlines the project's impacts with respect to aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation/traffic and utilities and service systems. In each of these areas, the Initial Study classified the project as having "No Impact" or having a "Less Than Significant Impact." Therefore, LAFCO staff is recommending that the Commission adopt a Negative

Declaration for the project, prior to adopting LAFCO's Agricultural Mitigation Policies.

A Notice of Intent to Adopt a Negative Declaration was circulated by LAFCO to affected agencies, stakeholders, transportation planning agencies and public agencies with transportation facilities within Santa Clara County for their public comment. The Negative Declaration was also submitted to the State Clearinghouse for review by state agencies. The Notice of Intent was also published in the Post Record and posted in the County Clerk-Recorder's Office. The 30-day public review period for the Negative Declaration began on March 2, 2007 and will end on March 31, 2007.

To date, LAFCO has received only one comment letter regarding the Proposed Negative Declaration. The letter from the Santa Clara Valley Transportation Authority (see Attachment D) states that the agency has no comments on the proposed project at this time. Any additional comment letters that LAFCO staff receives during the public comment period will be provided to LAFCO at the April 4, 2007 LAFCO hearing.

CORRESPONDENCE

Please see Attachment D for all the correspondence received on this issue since the February 14, 2007 LAFCO meeting.

EFFECTIVE DATE FOR THE NEW POLICIES

Staff is proposing that the policies become effective immediately.

NEXT STEPS

After Commission adoption of the policies:

- The policies will be mailed to the County, cities and special districts in the county and other interested persons or parties.
- The policies will be posted on the LAFCO web site.

ATTACHMENTS

Attachment A:	LAFCO's Final Revised Draft Agricultural Mitigation Policies (March 28, 2007)
Attachment B:	Negative Declaration and Initial Study
Attachment C:	March 13, 2007 Subcommittee Meeting Attendees List
Attachment D:	Comments received after February 14, 2007

AGRICULTURAL MITIGATION POLICIES

ITEM No. 4 ATTACHMENT A

Background

LAFCO's mission is to encourage orderly growth and development, discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. LAFCO will consider impacts to agricultural lands along with other factors in its evaluation of proposals. LAFCO's Urban Service Area (USA) Amendment Policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's USA Amendment Policies require an explanation of why the inclusion of agricultural lands is necessary and how such loss will be mitigated.

Purpose of Policies

The purpose of these policies is to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands.

General Policies

1. LAFCO recommends provision of agricultural mitigation as specified herein for all LAFCO applications that impact or result in a loss of prime agricultural lands as defined in Policy #6. Variation from these policies should be accompanied by information explaining the adequacy of the proposed mitigation.
2. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with these policies.
3. When a LAFCO proposal impacts or involves a loss of prime agricultural lands, LAFCO encourages property owners, cities and agricultural conservation agencies to work together as early in the process as possible to initiate and execute agricultural mitigation plans, in a manner that is consistent with these policies.
4. LAFCO will work with agricultural entities, the County, cities and other stakeholders to develop a program and public education materials to improve the community's understanding of the importance of agriculture in creating sustainable communities within Santa Clara County.

5. LAFCO will review and revise these policies as necessary.

Definition of Prime Agricultural Lands

6. Prime agricultural land as defined in the Cortese Knox Hertzberg Act means agricultural land that meets **any** of the following qualifications:
 - a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
 - b. Land that qualifies for rating 80 through 100 Storie Index Rating.
 - c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
 - d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
 - e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

Mitigation Recommendations

7. Proposals involving the conversion of prime agricultural lands should provide one of the following mitigations at a not less than 1:1 ratio (1 acre preserved for every acre converted) along with the payment of funds as determined by the city / agricultural conservation entity (whichever applies) to cover the costs of program administration, land management, monitoring, enforcement and maintenance of agriculture on the mitigation lands:
 - a. The acquisition and transfer of ownership of agricultural land to an agricultural conservation entity for permanent protection of the agricultural land.
 - b. The acquisition and transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land.
 - c. The payment of in-lieu fees to an agricultural conservation entity that are sufficient to fully fund*:

1. The cost of acquisition of agricultural lands or agricultural conservation easements for permanent protection, and
 2. The cost of administering, managing, monitoring and enforcing the agricultural lands or agricultural conservation easements, as well as the costs of maintaining agriculture on the mitigation lands.
- * with provisions for adjustment of in-lieu fees to reflect potential changes in land values at the time of actual payment
8. Agricultural lands or conservation easements acquired and transferred to an agricultural conservation entity should be located in Santa Clara County and be lands deemed acceptable to the city and entity.
 9. The agricultural mitigation should result in preservation of land that would be:
 - a. Prime agricultural land of substantially similar quality and character as measured by the Average Storie Index rating and the Land Capability Classification rating, and
 - b. Located within cities' spheres of influence in an area planned/envisioned for agriculture, and
 - c. That would preferably promote the definition and creation of a permanent urban/agricultural edge.
 10. Because urban/non-agricultural uses affect adjacent agricultural practices and introduce development pressures on adjacent agricultural lands, LAFCO encourages cities with LAFCO proposals impacting agricultural lands to adopt measures to protect adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. Examples of such measures include, but are not limited to:
 - a. Establishment of an agricultural buffer on the land proposed for development. The buffer's size, location and allowed uses must be sufficient to minimize conflicts between the adjacent urban and agricultural uses.
 - b. Adoption of protections such as a Right to Farm Ordinance, to ensure that the new urban residents shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with established standards.
 - c. Development of programs to promote the continued viability of surrounding agricultural land.

Agricultural Conservation Entity Qualifications

11. The agricultural conservation entity should be a city or a public or non-profit agency. LAFCO encourages consideration of agricultural conservation entities that:
 - a. Are committed to preserving local agriculture and have a clear mission along with strategic goals or programs for promoting agriculture in the areas that would be preserved through mitigation,
 - b. Have the legal and technical ability to hold and administer agricultural lands and agricultural conservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production and preferably have an established record for doing so, and
 - c. Have adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") for holding and administering agricultural lands, agricultural conservation easements and in-lieu fees and are operating in compliance with those standards.

Timing and Fulfillment of Mitigation

12. LAFCO prefers that agricultural mitigation be in place at the time of LAFCO approval or as soon as possible after LAFCO approval. The mitigation (as detailed in the Plan for Mitigation) should be fulfilled no later than at the time of city's approval of the final map, or issuance of a grading permit or building permit, whichever occurs first.
13. Cities should provide LAFCO with information on how the city will ensure that the agricultural mitigation is provided at the appropriate time.
14. Cities should provide LAFCO with a report on the status of agricultural mitigation fulfillment every year following LAFCO approval of the proposal until the agricultural mitigation commitments are fulfilled.
15. The agricultural conservation entity should report annually to LAFCO on the use of the in-lieu fees until the fees have been fully expended.

Plan for Mitigation

16. A plan for agricultural mitigation that is consistent with these policies should be submitted at the time that a proposal impacting agricultural lands is filed with LAFCO. The plan for mitigation should include all of the following:
 - a. An agreement between the property owner, city and agricultural conservation entity (if such an entity is involved) that commits the property owner(s) to provide the mitigation for the loss of prime agricultural lands and establishes the specifics of the mitigation. Upon LAFCO approval of the proposal, the agreement should be recorded with the County Recorder's office against the property to be developed. The agreement should specify:

1. The type of mitigation that will be provided in order to mitigate for conversion of agricultural lands. (purchase of fee title or easement or payment of in-lieu fees)
 2. The agricultural conservation entity that will be involved in holding the lands, easements, or in-lieu fees.
 3. The acreage that would be preserved through mitigation and /or the amount of in-lieu fees that would be paid (with provisions to adjust fees to reflect land values at time of payment) along with the methodology adopted by the entity for calculating the in-lieu fees.
 4. The location of the mitigation lands, when possible.
 5. Information on the specific measures adopted by the city as encouraged in Policy #10 (mitigation for impacts to adjacent agricultural lands)
 6. The time-frame within which the mitigation will be fulfilled, which should be no later than at the time of city's approval of the final map, or issuance of the grading permit or building permit, whichever occurs first.
 7. The mitigation agreement is to be contingent on LAFCO approval of the proposal.
- b. Applicant should provide all other supporting documents and information to demonstrate compliance with these policies.

Notice of Intent to Adopt a Negative Declaration

Per the California Environmental Quality Act (CEQA), this notice has been prepared to inform you that the following project will not have a significant effect on the environment.

Project Name	Applicant	
Adoption of LAFCO's Agricultural Mitigation Policies	Local Agency Formation Commission of Santa Clara County (LAFCO)	
Project Location		
Unincorporated properties in Santa Clara County		
Project Description		
<p>The project is the adoption of LAFCO's Agricultural Mitigation Policies.</p> <p>LAFCO's mission is to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. LAFCO will consider impacts to agricultural lands along with other factors in its evaluation of proposals. LAFCO's Urban Service Area (USA) Amendment Policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's USA Amendment Policies require an explanation of why the inclusion of the agricultural lands is necessary and how such loss will be mitigated.</p> <p>The purpose of these policies is to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework to LAFCO for evaluating and processing LAFCO proposals that involve or impact agricultural lands in a consistent manner. The policies include LAFCO's recommendation on how mitigation should be provided; variations from these policies should be accompanied by information explaining the adequacy of the proposed mitigation.</p>		
Purpose of Notice		
<p>The purpose of this notice is to inform you that the LAFCO staff has recommended that a Negative Declaration be approved for this project. LAFCO staff has prepared the Initial Study for the project, and based upon substantial evidence in the record, finds that the proposed project could not have a significant effect on the environment.</p> <p>A public hearing for consideration and adoption of LAFCO's Agricultural Mitigation Policies is tentatively scheduled for the Local Agency Formation Commission of Santa Clara County on April 4, 2007, 1:30 PM in the County Government Center, Isaac Newton Senter, 70 W. Hedding Street, San Jose, CA 95110.</p>		
Public Review Period:	Begins: March 2, 2007	Ends: March 31, 2007
<p>Public Comments regarding the correctness, completeness, or adequacy of this negative declaration are invited and must be received on or before the end of the review period listed above. Such comments should be based on specific environmental concerns. Written comments should be addressed to the LAFCO of Santa Clara County, 70 W. Hedding Street, 11th Floor, East Wing, San Jose, CA 95110. Oral comments may be made at the hearing. A file containing additional information on this project may be reviewed at the LAFCO Office. For additional information regarding this project and the Negative Declaration, please contact Dunia Noel at (408) 299-5148.</p>		

The Negative Declaration and Initial Study may be viewed at the following locations:

- (1) LAFCO of Santa Clara County, 70 West Hedding Street, 11th Floor, East Wing, San Jose, CA 95110
(2) LAFCO Office Website <http://www.santaclara.lafco.ca.gov/> (under "What's New")

Approved by:

Neelima Palacherla, Executive Officer


Signature

2/28/07
Date

Responsible Agencies sent a copy of this document:

- California State Clearinghouse
- Cities in Santa Clara County
- LAFCO Special Districts
- County of Santa Clara Planning Office
- County of Santa Clara Agricultural Commissioner
- County of Santa Clara Environmental Health Department
- County of Santa Clara Roads and Airports Department
- County of Santa Clara Parks Department
- Santa Clara Valley Water District
- Santa Clara Valley Transportation Agency
- Bay Area Air Quality Management District
- California Department of Fish and Game
- Environmental Protection Agency
- U.S. Fish and Wildlife Service
- U.S.D.A. Soil Conservation
- U.S. Army Corp of Engineers

Negative Declaration / Initial Environmental Study

1. **Project Title:** LAFCO's Agricultural Mitigation Policies
2. **Lead Agency Name and Address:**
Local Agency Formation Commission of Santa Clara County
70 West Hedding Street
11th Floor, East Wing
San Jose, CA 95110
3. **Contact Person, Phone Number, E-Mail:** Dunia Noel, Analyst at (408) 299-5148 or dunia.noel@ceo.sccgov.org.
4. **Property Location:** The project would apply to all unincorporated properties in Santa Clara County
5. **Project Sponsor's Name and Address:**
Local Agency Formation Commission of Santa Clara County
70 West Hedding Street
11th Floor, East Wing
San Jose, CA 95110
6. **General Plan Designation(s):** All designations in unincorporated Santa Clara County
7. **Zoning:** All zoning districts in unincorporated Santa Clara County
8. **Description of the Project:** Adoption of LAFCO's Agricultural Mitigation Policies (see attached "Project Description" below)
9. **Surrounding Land Uses and Setting:** not applicable (applies to all unincorporated properties in Santa Clara County)
10. **Other public agencies whose approval is required:** none
11. **Other Project Assumptions:** The Initial Study assumes compliance with all applicable State, Federal, and Local Codes and Regulations including, but not limited to, County of Santa Clara Standards, the California Building Code, the State Health and Safety Code, and the State Public Resources Code.

Project Description:

The Project is the adoption of LAFCO's Agricultural Mitigation Policies.

LAFCO's mission is to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. LAFCO will consider impacts to agricultural lands along with several other factors in its evaluation of proposals. LAFCO's existing Urban Service Area (USA) Amendment Policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's existing USA Amendment Policies require an explanation for why the inclusion of agricultural lands is necessary and how such loss will be mitigated.

70 West Hedding Street • 11th Floor, East Wing • San Jose, CA 95110 • (408) 299-5127 • (408) 295-1613 Fax • www.santaclara.lafco.ca.gov

COMMISSIONERS: Bianca Alvarado, Don Gage, John Howe, Linda J. LeZotte, Susan Vicklund Wilson

ALTERNATE COMMISSIONERS: Pete McHugh, Chuck Reed, Terry Trumbull, Roland Velasco

EXECUTIVE OFFICER: Neelima Palacherla

The proposed Agricultural Mitigation Policies are intended to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands. The policies include LAFCO's recommendations on how mitigation should be provided; variations from these policies should be accompanied by information explaining the adequacy of the proposed mitigation.

The proposed policies use the Cortese Knox Hertzberg Act's definition of prime agricultural land which is defined as agricultural land that meets any of the following qualifications:

- Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- Land that qualifies for rating 80 through 100 Storie Index Rating.
- Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
- Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

The proposed policies recommend that proposals involving the conversion of prime agricultural lands should provide mitigation at a not less than 1:1 ratio (1 acre preserved for every acre converted), along with the payment of the necessary funds as determined by the city/agricultural conservation entity (whichever applies) to cover the costs of program administration, land management, monitoring, enforcement and promotion of agriculture on the mitigation lands. The proposed policies provide three options including acquisition and transfer of agricultural land or acquisition and transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land or payment of in-lieu fees to an agricultural conservation entity sufficient to fully fund the acquisition of agricultural lands or agricultural conservation easements for permanent protection and cost of administering, managing, monitoring and enforcing the agricultural use of the lands or agricultural conservation easements, as well as the costs of promoting agriculture on the mitigation lands.

Under the proposed policies, agricultural mitigation should result in the preservation of land that would be prime agricultural land of substantially similar quality and character as measured by the Average Storie Index rating and the Land Capability Classification rating, located within the city's sphere of influence boundary in an area planned/envisioned for agriculture and would preferably promote the definition or creation of a permanent urban/agricultural edge. Therefore, agricultural mitigation lands will likely be located on unincorporated lands where agriculture is an existing use and/or where agriculture is an allowed use pursuant to local zoning and land use regulations.

The proposed policies also encourage cities with LAFCO proposals impacting adjacent agricultural lands to adopt measures to preserve adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses.

The proposed policies provide guidance on the timing and fulfillment of agricultural mitigation as well as for the type of information and assurances in the plan for mitigation that should be submitted to LAFCO with proposals involving agricultural lands.

Lastly, LAFCO's approval of a boundary change is subject to a separate environmental review process. This separate environmental review process will occur prior to and as part of LAFCO's application review process for LAFCO proposals.

ATTACHMENT:

A. Proposed Agricultural Mitigation Policies (February 2007)

ENVIRONMENTAL FACTORS PONTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is still a "Potentially Significant Impact"(after any proposed mitigation measures have been adopted) as indicated by the checklist on the following pages.


- | | | |
|---|--|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology / Soils |
| <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Resources / Recreation | <input type="checkbox"/> Transportation / Traffic | <input type="checkbox"/> Utilities / Service Systems |
| <input type="checkbox"/> Mandatory Findings of Significance | | <input checked="" type="checkbox"/> None |

DETERMINATION: (To be completed by the Lead Agency)

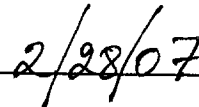
On the basis of this initial evaluation:

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature



Date



Printed name

NEELIMA PALACHERLA

For

ENVIRONMENTAL CHECKLIST AND DISCUSSION OF IMPACTS

A. AESTHETICS					
	IMPACT				SOURCES
WOULD THE PROJECT:	YES			NO	
	<u>Potentially Significant Impact</u>	<u>Less Than Significant With Mitigation Incorporated</u>	<u>Less Than Significant Impact</u>	<u>No Impact</u>	
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2,3,4, 6a,17f
b) Substantially damage scenic resources along a designated scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 6a, 17f
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2,3
d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3,4
e) If subject to ASA, be generally in non-compliance with the Guidelines for Architecture and Site Approval?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	11
f) If subject to Design Review, be generally in non-compliance with the Guidelines for Design Review Approval?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3,4,12
g) Be located on or near a ridgeline visible from the valley floor?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2,17n

DISCUSSION:

The proposed project is LAFCO's adoption of Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. No development is being proposed. The project would not damage scenic resources along a designated scenic highway since there is no proposed development. Implementation of the Policies would result in the preservation of agricultural land that is either already in agricultural production or capable of producing agricultural commodities and upon which the applicable zoning and land use regulations allow an agricultural use. All mitigation lands would be in the rural unincorporated areas of Santa Clara County where agricultural and other low-intensity uses prevail. Therefore, use of such lands for agricultural purposes would not cause any significant visual impacts compared to the existing environment.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have no visual impacts.

B. AGRICULTURE RESOURCES					
WOULD THE PROJECT:	IMPACT				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Convert 10 or more acres of farmland classified as prime in the report <i>Soils of Santa Clara County</i> to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3,23,24,26
b) Conflict with existing zoning for agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	9,21a
c) Conflict with an existing Williamson Act Contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
d) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3,4,26

DISCUSSION:

The project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. The proposed policies are intended to reduce the impacts to or loss of agricultural lands. No development is being proposed. The proposed project would not convert any prime farmland to a non-agricultural use. The proposed project would not conflict with existing zoning for agricultural use and would not conflict with an existing Williamson Act contract.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have no adverse impact to agricultural resources.

C. AIR QUALITY					
Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.					
WOULD THE PROJECT:	IMPACT				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5,28
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5,29
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5,29

d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5,29
e) Create objectionable odors or dust affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	5,21, 29, 47

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. No development is being considered at this time. The mitigation lands would consist of lands that are either already in agricultural production or capable of producing agricultural commodities and upon which agricultural use is allowed under the applicable zoning and land use regulations. While it is expected that some of the mitigation lands will already be in agricultural production, adoption of the Policies could result in the commencement of agricultural production on lands that are not currently used for agricultural production. Any use of mitigation lands for agricultural purposes would be done in compliance with all applicable air quality regulations. All mitigation lands would be in the rural, unincorporated areas of Santa Clara County where agricultural and other low-intensity uses prevail; thus, any odors or dusts associated with farming the mitigation lands would not affect a substantial number of people.

FINDING:

The adoption LAFCO's Agricultural Mitigation Policies would not cause any significant air quality impacts.

D. BIOLOGICAL RESOURCES					
WOULD THE PROJECT:	IMPACT				SOURCES
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
*Questions relating to the California Department of Fish & Game "no effect determination" for the CEQA Filing Fee Exemption are listed in italics.					
a) <i>Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 7, 17b, 17o
b) <i>Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3,7, 8a, 17b, 17e, 33
c) <i>Have a substantial adverse effect on federally protected wetlands as defined by section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) or tributary to an already impaired water body, as defined by section 303(d) of the Clean Water Act through direct removal, filling, hydrological interruption, or other means?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 7, 17n, 32
d) <i>Have a substantial adverse effect on oak woodland habitat as defined by Oak Woodlands Conservation Law – (conversion/loss of oak woodlands)?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

e) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,7, 17b, 17o
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3,4
g) Conflict with any local policies or ordinances protecting biological resources:					
i) Tree Preservation Ordinance [Section C16]?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,3,31
ii) Wetland Habitat [GP Policy, R-RC 25-30]?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 8a
iii) Riparian Habitat [GP Policy, R-RC 31-41]?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 8a,

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. The mitigation lands would consist of lands that are either already in agricultural production or capable of producing agricultural commodities and upon which agricultural use is allowed under the applicable zoning and land use regulations. While it is expected that some of the mitigation lands are likely to already be in agricultural production, adoption of the Policies could result in the commencement of agricultural production on lands that are not currently used for agriculture.

The mitigation lands would be located in unincorporated Santa Clara County, which is subject to the land use/development jurisdiction of the County of Santa Clara. Pursuant to the County's grading ordinance, grading associated with converting land from non-agricultural to agricultural use that entails at least 150 cubic yards requires a grading permit. The County's grading permit process is a discretionary permit process that is subject to CEQA. Therefore, any potentially significant impacts associated with commencing agricultural use on mitigation lands would be subject to further review and, if necessary, mitigation under CEQA before the use would be allowed. This process would also ensure that any new agricultural use that entails more than modest soil disturbance would be evaluated for potential impacts to biological resources.

Furthermore, The County of Santa Clara, Santa Clara County Valley Water District, and the cities of Gilroy, Morgan Hill, and San Jose have initiated a collaborative process to prepare and implement a joint Habitat Conservation Plan (HCP/NCCP) to promote the recover of endangered species while accommodating planned development and infrastructure. These agencies, in association with regulatory wildlife agencies including the U.S. Fish and Wildlife Service, California Department of Fish and Game, and NOAA-National Marine Fisheries Service, are developing a long-range plan to protect and enhance ecological diversity and function with more than 500,000 acres of Santa Clara County. If the Santa Clara HCP/NCCP is approved by participating Wildlife Agencies, incidental take permits will be issued for a list of projects and activities identified within the Plan as likely to occur during the permit term. These activities are expected to include urban and rural development activities that are consistent with current city and County land use plans; maintenance and development of public infrastructure (water, transportation, etc.); activities within streams; and management and monitoring activities within habitat reserve lands. The Plan and any permits issued as a result of the Plan approval will ensure that there are adequate mitigations for impacts to biological resources associated with the various activities.

With the passing of the Oak Woodlands Conservation Law, local government agencies must now determine whether or not a project may result in a conversion of oak woodlands that will have a significant effect. If there may be a significant effect, they must employ one or more of the following mitigation measures: conserving oaks through the use of conservation easements; planting and maintaining an appropriate number of trees either onsite or in restoration of a former oak woodlands

(tree planting is limited to half the mitigation requirement); contributing funds to the Oak Woodlands Conservation Fund for the purpose of purchasing conservation easements; or other mitigation measures developed by the county.

However, this requirement does not apply to conversion of oak woodlands on agricultural land "that includes land that is used to produce or process plant and animal products for commercial purposes" (this would include grazing lands). As explained above, some of the mitigation lands are expected to already be in agricultural production. Any conversion of land to agricultural uses that involves grading of at least 150 cubic yards requires a grading permit. The County's grading permit process is a discretionary permit process that is subject to CEQA. Therefore, any potentially significant impacts associated with commencing agricultural use on mitigation lands would be subject to further review and, if necessary, mitigation under CEQA before the use would be allowed. Therefore, adoption of the Policies is expected to have a less-than-significant impact on oak woodlands.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have less-than-significant impacts to biological resources or to oak woodland resources.

E. CULTURAL RESOURCES					
WOULD THE PROJECT	IMPACT				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5 of the CEQA Guidelines?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3, 16, 19, 40, 41
b) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5 of the CEQA Guidelines?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3, 19, 40, 41,
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2,3,4,,40,41
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2, 40,41
e) Change or affect any resource listed in the County Historic Resources Database?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	16

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. It is expected that some of the mitigation lands will already be in agricultural production and that the nature of the agricultural use(s) on these lands would not change so there would be no potential impacts to cultural resources. For the remaining mitigation lands that are not currently in agricultural production, there could be additional soil disturbance associated with commencing agricultural activities on these lands. The majority of agriculture in Santa Clara County involves very shallow soil disturbance (e.g., vegetable crops). A small percentage of agricultural production in the County involves uses that cause significant soil disturbance (e.g., grape vines).

The mitigation lands would be located in unincorporated Santa Clara County, which is subject to the land use/development jurisdiction of the County of Santa Clara. Pursuant to the County's grading ordinance, grading associated with the conversion of land to agricultural purposes that exceeds 150 cubic yards requires a grading permit. The County's grading permit process is a discretionary permit

process that is subject to CEQA. Therefore, any potentially significant impacts associated with commencing agricultural use on mitigation lands would be subject to further review and, if necessary, mitigation under CEQA before the use would be allowed. Therefore, adoption of the Policies is expected to have a less-than-significant impact on cultural or historic resources.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have less-than-significant impacts to cultural resources.

F. GEOLOGY AND SOILS					
WOULD THE PROJECT:	IMPACT				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6, 17L, 43
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6, 17c, 18b
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6, 17c, 17n, 18b
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6, 17L, 118b
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	6, 2, 3
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 3, 17c, 23, 24, 42
d) Be located on expansive soil, as defined in the report, <i>Soils of Santa Clara County</i> , creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	14, 23, 24,
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 6, 23, 24,
f) Cause substantial compaction or over-covering of soil either on-site or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3, 6
g) Cause substantial change in topography or unstable soil conditions from excavation, grading, or fill?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2, 3, 6, 42

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. No review of erosion impacts is required at this time. No development is being proposed.

It is expected that some of the mitigation lands will already be in agricultural production. For the remaining mitigation lands that are not currently in agricultural production, there could be additional soil disturbance associated with commencing agricultural activities on these lands.

The mitigation lands would be located in unincorporated Santa Clara County, which is subject to the land use/development jurisdiction of the County of Santa Clara. Pursuant to the County's grading ordinance, grading associated with converting land from non-agricultural to agricultural use that entails at least 150 cubic yards requires a grading permit. The County's grading permit process is a discretionary permit process that is subject to CEQA. Therefore, any potentially significant impacts associated with commencing agricultural use on mitigation lands would be subject to further review and, if necessary, mitigation under CEQA before the use would be allowed. This process would also ensure that any new agricultural use that entails more than modest soil disturbance would be evaluated for potential impacts to geology/soils resources and those impacts would be appropriately mitigated.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have less-than-significant impacts related to geology, erosion, or soils.

G. HAZARDS & HAZARDOUS MATERIALS					
	IMPACT				SOURCE
WOULD THE PROJECT	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3, 4, 5
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2, 3, 5
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within 1/4 mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	46
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	47
e) For a project located within an airport land use plan referral area or, where such a plan has not been adopted, within two miles of a public airport or public use airport, or in the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 22a
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5, 48
g) Expose people or structures to a significant risk of loss, injury or death involving wildland fires including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4

h) Provide breeding grounds for vectors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5
i) Proposed site plan result in a safety hazard (i.e., parking layout, access, closed community, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3
j) Involve construction of a building, road or septic system on a slope of 30% or greater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 17n
k) Involve construction of a roadway greater than 20% slope for a distance of 300' or more?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 17n

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. Any use of hazardous materials on mitigation lands would be subject to numerous state and local laws and regulations. Compliance with these regulatory requirements will ensure that any impacts will be mitigated to less-than-significant levels.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have less than significant impacts to public health and safety.

H. HYDROLOGY AND WATER QUALITY					
WOULD THE PROJECT:	IMPACT				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	34, 36
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3, 4
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3, 17n
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site? (Note policy regarding flood retention in watercourse and restoration of riparian vegetation for West Branch of the Llagas.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	3
e) Create or contribute increased impervious surfaces and associated runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5, 36, 21a

	polluted runoff?					
f)	Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3, 5
g)	Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 18b, 18d
h)	Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 18b, 18d
i)	Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 3, 4
j)	Be located in an area of special water quality concern (e.g., Los Gatos or Guadalupe Watershed)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	4, 6a,
k)	Be located in an area known to have high levels of nitrates in well water?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	4
l)	Result in a septic field being constructed on soil where a high water table extends close to the natural land surface?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3
m)	Result in a septic field being located within 50 feet of a drainage swale; 100 feet of any well, water course or water body or 200 feet of a reservoir at capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands.

It is expected that some of the mitigation lands will already be in agricultural production and that the nature of the agricultural use(s) on these lands would not change so there would be no increase in the use of water resources for these lands or any other new impacts to hydrology and water resources related to the continued use of these lands for agricultural purposes. For the remaining mitigation lands that are not currently in agricultural production, there could be additional water use and water quality impacts associated with commencing agricultural activities on these lands.

The mitigation lands would be located in unincorporated Santa Clara County, which is subject to the land use/development jurisdiction of the County of Santa Clara. Pursuant to the County's grading ordinance, grading associated with converting land from non-agricultural to agricultural use that entails at least 150 cubic yards requires a grading permit. The County's grading permit process is a discretionary permit process that is subject to CEQA. Therefore, any potentially significant impacts to hydrology and water quality associated with commencing agricultural use on mitigation lands would be subject to further review and, if necessary, mitigation under CEQA before the use would be allowed. This process would also ensure that any new agricultural use would be evaluated for potential impacts to hydrology/water resources and that those impacts would be appropriately mitigated.

With regard to potential water quality impacts, there are a variety of state and local laws and regulations related to the protection of water quality. Compliance with these regulatory requirements will ensure that any impacts will be mitigated to a less-than-significant level.

With respect to items (c), (d) and (e), these issues would be addressed through the County's grading permit process described above in the "Geology and Soils" section.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have a less-than-significant impact on hydrology and water quality.

I. LAND USE					
WOULD THE PROJECT:	IMPACT				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 4
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	8a, 9, 18a

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on the timing and fulfillment of agricultural mitigation as well as for the type of information and assurances in the plan for mitigation that should be submitted to LAFCO with proposals involving agricultural lands.

Under the proposed Policies, agricultural mitigation should result in preservation of land that would be:

- Prime agricultural land of equivalent quality and character as measured by the Average Storied Index rating and the Land Capability Classification rating, and
- Located within the city's sphere of influence in an area planned/envisioned for agriculture, and
- Would preferably promote the definition or creation of a permanent urban/agricultural edge.

Therefore, agricultural mitigation lands will be located on unincorporated County lands where agriculture is already an existing use and/or where agriculture is allowed under the County's existing General Plan and zoning/land use regulations. The proposed project will not divide an established community or conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect.

No specific development is proposed at this time. If grading, or any other types of development applications are considered, the agency with land use planning and permitting authority shall conduct further environmental review and shall cover evaluation of impacts to land use at that time.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have no impact on land use or zoning regulations.

J. NOISE					
WOULD THE PROJECT:	IMPACTS				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	8a, 13, 22a, 45
b) Result in exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	13
c) Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 5
d) Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 5
e) For a project located within an airport land use plan referral area or, where such a plan has not been adopted, within two miles of a public airport or public use airport, or private airstrip would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 5, 22a

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. While it is expected that some of the mitigation lands will already be in agricultural production, adoption of the Policies could result in the commencement of agricultural production on lands that are not currently used for agricultural production. All mitigation lands would be in the rural, unincorporated areas of Santa Clara County where agricultural and other low-intensity uses prevail; thus, any noise associated with farming the mitigation lands would not affect a substantial number of people. Compliance with the County noise ordinance will also ensure that any new agricultural uses that are undertaken will not have a significant noise impact.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have less than significant noise impacts.

K. POPULATION AND HOUSING					
WOULD THE PROJECT:	IMPACT				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Induce substantial growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 4, 6
b) Displace substantial numbers of existing housing or people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 2, 3, 4

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. No development is being proposed. No new infrastructure or services are being proposed. The proposed project would not alter or increase growth in the area. No housing would be displaced either. If grading, or any other types of development applications are considered, the agency with land use planning and permitting authority shall conduct further environmental review and shall cover evaluation of impacts to population and housing at that time.

Adoption of LAFCO's Agricultural Mitigation Policies will not induce growth in the unincorporated County. One city has asserted that, because the County of Santa Clara does not have agricultural mitigation policies, and individuals could develop within the unincorporated County without having to provide agricultural mitigation, rather than annexing to and developing in the City and potentially having to provide mitigation for their project's impact to prime agricultural land. The city has asserted that adoption of the Policies will result in additional sprawling development in the unincorporated area and concurrent reduction of land inventory eligible for agricultural mitigation purposes. The city has also asserted that a 20-unit subdivision, with 5-acre lots would have no land mitigation requirements if built in the County. However, if this same development were proposed to be annexed to the City of San Jose, for example, with a request to expand the City's USA to provide sewer connections and other City services to the development; that development would be subject to LAFCO's proposed Policies.

These concerns are very speculative because under the County, Cities, and LAFCO Joint Urban Development Policies, the County does not allow urban development or provide urban services in the unincorporated area. The County's existing General Plan and zoning/land development regulations also protect and preserve agricultural lands from incompatible development. The minimum lot sizes in the County are 5 to 20 acres in the Rural Residential Zone, 20 acres in the Agricultural Medium Scale Zone and 40 acres in the Agricultural Large Scale Zone. Developers would evaluate whether the type of project that they want to develop can be completed in the unincorporated County and then they would have to weigh the cost of purchasing that much acreage in the unincorporated County against the cost of acquiring agricultural mitigation land through an agricultural easement or in fee title. In light of the County's density restrictions, it is highly unlikely that a developer would determine that it is more economically advantageous to develop the same number of dwelling units in the unincorporated area (without access to urban services and relying on on-site sewer and water services) as it would be to develop within a city.

The highest-density rural General Plan and Zoning designation in the County General Plan for rural unincorporated areas (outside of existing Urban Service Areas) is "Rural Residential," which has a

density of 5-20 acres per dwelling depending on average slope. For example, where average slope of a parcel is 10% or less, 5 acres would be the allowed density per dwelling and the minimum lot size. According to the County General Plan Land Use map and Planning Office staff, within the City of San Jose's Sphere of Influence, the only notable Rural Residential Land Use designated lands are in the East foothills of the Diablo Range and portions of the South Almaden Valley Urban Reserve (SAVUR). The unincorporated New Almaden Community also has a Rural Residential Land Use designation, but there is little or no subdivision potential there. County Planning Office staff know of no developable lots under the Rural Residential designation within the East foothills or SAVUR that are of the necessary size (100 to 150+ acres) or minimum slope (10-15%) to allow a 20-unit subdivision that would conform with the General Plan and Zoning Ordinance. Furthermore, most of the unincorporated Rural Residential lands are already so substantially divided that the potential for new subdivisions is extremely limited, except for portions of San Martin. The other major base General Plan designations for rural unincorporated areas, Agriculture-Medium Scale, Agriculture-Large Scale, Ranchlands, and Hillside, have allowable densities of at least 20 acres per dwelling or more. The potential for such rural residential development on existing lots currently exists and is driven by existing economics; therefore, it is not an impact of the proposed project.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would not impact population and housing.

L. PUBLIC SERVICES					
WOULD THE PROJECT:	IMPACT				
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
i) Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5
ii) Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5
iii) School facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5
iv) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5
v) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5

DISCUSSION:

The project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. No development is being proposed. The proposed project would neither require any expansion of nor substantially alter government facilities, and the provision of public services.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would not impact the provision of or result in the need for new public services (i.e. fire, police, schools, parks, etc.).

M. RECREATION AND MINERAL RESOURCES					
WOULD THE PROJECT:	IMPACT				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 2, 3, 6, 44
b) Result in the loss of availability of a locally-important mineral resource recovery site as delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 2, 3, 6, 8a
c) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 2, 4, 5
d) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 4, 5
e) Be on, within or near a public or private park, wildlife reserve, or trail or affect existing or future recreational opportunities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	17h, 21a
f) Result in loss of open space rated as high priority for acquisition in the "Preservation 20/20" report?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	27

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. The proposed project would not require the construction of additional recreational facilities nor substantially increase the use of existing recreational facilities. No development is being proposed.

The mitigation lands would be located in unincorporated Santa Clara County, which is subject to the land use/development jurisdiction of the County of Santa Clara. Pursuant to the County's grading ordinance, grading associated with the conversion of land to agricultural purposes that exceeds 150 cubic yards requires a grading permit. The County's grading permit process is a discretionary permit process that is subject to CEQA. Therefore, any potentially significant impacts associated with commencing agricultural use on mitigation lands would be subject to further review and, if necessary, mitigation under CEQA before the use would be allowed. This process would also ensure that any new agricultural use would be evaluated for potential impacts to recreation and mineral resources and that those impacts would be appropriately mitigated.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have less-than-significant impacts to recreation and mineral resources.

N. TRANSPORTATION / TRAFFIC					
WOULD THE PROJECT:	IMPACT				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 4, 5, 6, 7, 49, 53
b) Exceed, either individually or cumulatively, a level of service standard established by the County congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	6, 49, 50, 53
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5, 6, 7, 53
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 5, 6, 7, 53
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5, 48, 53
f) Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	52, 53
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	8a, 21a
h) Not provide safe access, obstruct access to nearby uses or fail to provide for future street right of way?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	3, 6, 7, 53

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. No development is proposed at this time. The mitigation lands would consist of lands that are either already in agricultural production or capable of producing agricultural commodities and upon which agricultural use is allowed under the applicable zoning and land use regulations. While it is expected that some of the mitigation lands will already be in agricultural production, adoption of the Policies could result in the commencement of agricultural production on lands that are not currently used for agricultural production. The commencement of agricultural production on lands that are not currently used for agricultural production would likely increase farm related traffic. This impact would be less-than-significant.

Pursuant to the County's grading ordinance, grading associated with the conversion of land to agricultural purposes that exceeds 150 cubic yards requires a grading permit. The County's grading permit process is a discretionary permit process that is subject to CEQA. Therefore, any potentially significant impacts associated with commencing agricultural use on mitigation lands would be subject to further review and, if necessary, mitigation under CEQA before the use would be allowed. This process would also ensure that any new agricultural use would be evaluated for potential impacts to transportation/traffic resources and that those impacts would be appropriately mitigated. This would include an evaluation of adequate site access to and from the property, generation of traffic, and parking requirements for the proposed land uses.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have less-than-significant impacts to transportation/traffic.

O. UTILITIES AND SERVICE SYSTEMS					
WOULD THE PROJECT:	IMPACT				SOURCE
	YES			NO	
	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5,
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3, 5, 21a, 38
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3, 5
d) Require new or expanded entitlements in order to have sufficient water supplies available to serve the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5, 21,
e) Result in a determination by the wastewater treatment provider that serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5
f) Not be able to be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3, 5
g) Be in non-compliance with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5, 6

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. No development is proposed at this time and therefore there will be no need for new or additional utilities and there will be no impacts to existing capacity of service systems.

The mitigation lands would be located in unincorporated Santa Clara County, which is subject to the land use/development jurisdiction of the County of Santa Clara. Pursuant to the County's grading ordinance, grading associated with the conversion of land to agricultural purposes that exceeds 150 cubic yards requires a grading permit. The County's grading permit process is a discretionary permit process that is subject to CEQA. Therefore, any potentially significant impacts associated with commencing agricultural use on mitigation lands would be subject to further review and, if necessary, mitigation under CEQA before the use would be allowed. This process would also ensure that any new agricultural use would be evaluated for potential impacts to utilities and service systems and that those impacts would be appropriately mitigated.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have less-than-significant impacts to utilities and service systems.

P. MANDATORY FINDING OF SIGNIFICANCE					
WOULD THE PROJECT:	IMPACT				SOURCE
	YES			NO	
*Questions relating to the California Department of Fish & Game "no effect determination" for the CEQA Filing Fee Exemption are listed in italics.	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	
a) <i>Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 to 53
b) Does the project have impacts that are individually limited, but cumulatively considerable ("Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1 to 53
c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1 to 53

DISCUSSION:

The proposed project is the adoption of LAFCO's Agricultural Mitigation Policies. The proposed policies provide guidance on how to address agricultural mitigation for LAFCO proposals that involve or impact agricultural lands. No development is proposed at this time. The mitigation lands would consist of lands that are either already in agricultural production or capable of producing agricultural commodities and upon which agricultural use is allowed under the applicable zoning and land use regulations. While it is expected that some of the mitigation lands are likely to already be in agricultural production, adoption of the Policies could result in the commencement of agricultural production on lands that are not currently used for agriculture.

The mitigation lands would be located in unincorporated Santa Clara County, which is subject to the land use/development jurisdiction of the County of Santa Clara. Pursuant to the County's grading ordinance, grading associated with converting land from non-agricultural to agricultural use that entails at least 150 cubic yards requires a grading permit. The County's grading permit process is a discretionary permit process that is subject to CEQA. Therefore, any potentially significant impacts associated with commencing agricultural use on mitigation lands would be subject to further review and, if necessary, mitigation under CEQA before the use would be allowed. This process would also ensure that any new agricultural use that entails more than modest soil disturbance would be evaluated for potential impacts to biological resources.

This project would have a less than significant potential to substantially reduce the habitat of a fish or wildlife species, to cause a fish or wildlife population to drop below self sustaining levels, to threaten to eliminate a plant or animal community, and to reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory. As previously discussed in the biological resources section and the cultural resources section, the adoption of LAFCO's Agricultural Mitigation Policies would have less-than-significant impacts to biological resources and cultural resources.

FINDING:

The adoption of LAFCO's Agricultural Mitigation Policies would have less-than-significant impacts to any environmental resource. The project will not significantly degrade the quality of the environment, or have substantial adverse effects on human beings directly or indirectly. The proposed project would not have any potentially significant cumulatively considerable impacts. On the basis of this Initial Study, a Negative Declaration shall be prepared for this project.

Initial Study Source List*

1. Environmental Information Form
2. Field Inspection
3. Project Plans
4. Analyst's Knowledge of Area
5. Experience With Other Projects of This Size and Nature
6. County Expert Sources: Geologist, Fire Marshal, Roads & Airports, Environmental Health, Land Development Engineering, Parks & Recreation, Zoning Administration, Comprehensive Planning, Architectural & Site Approval Committee Secretary
7. Agency Sources: Santa Clara Valley Water District, Santa Clara Valley Transportation Authority, Midpeninsula Open Space Regional District, U.S. Fish & Wildlife Service, CA Dept. of Fish & Game, Caltrans, U.S. Army Core of Engineers, Regional Water Quality Control Board, Public Works Depts. of individual cities, Planning Depts. of individual cities,
 - 8a. Santa Clara County (SCC) General Plan
 - 8b. The South County Joint Area Plan
 9. SCC Zoning Regulations (Ordinance)
 10. County Grading Ordinance
 11. SCC Guidelines for Architecture and Site Approval
 12. SCC Development Guidelines for Design Review
 13. County Standards and Policies Manual (Vol. I - Land Development)
 14. Table 18-1-B of the Uniform Building Code [1994 version]
 15. Land Use Database
 16. Santa Clara County Heritage Resource (including Trees) Inventory [computer database]
 17. GIS Database
 - a. SCC General Plan Land Use, and Zoning
 - b. Natural Habitat Areas & Riparian Plants
 - c. Relative Seismic Stability
 - d. Archaeological Resources
 - e. Water Resources & Water Problems
 - f. Viewshed and Scenic Roads
 - g. Fire Hazard
 - h. Parks, Public Open Space, and Trails
 - i. Heritage Resources
 - j. Slope Constraint
 - k. Serpentine soils
 - l. State of California, Alquist-Priolo Earthquake Fault Zones, and County landslide & fault zones
 - m. Water Problem/Resource
 - n. USGS Topo Quad, and Liquefaction
 - o. Dept. of Fish & Game, Natural Diversity Data
 - p. FEMA Flood Zones
18. Base Map Overlays & Textual Reports (GIS) Paper Maps
 - a. SCC Zoning
 - b. Barclay's Santa Clara County Locaide Street Atlas
 - c. Color Air Photos (MPSI)
 - d. Santa Clara Valley Water District - Maps of Flood Control Facilities & Limits of 1% Flooding
 - e. Soils Overlay Air Photos
 - f. "Future Width Line" map set
19. CEQA Guidelines [Current Edition]

Area Specific: San Martin, Stanford, and Other Areas

San Martin

- 20a. San Martin Integrated Design Guidelines
- 20b. San Martin Water Quality Study
- 20c. Memorandum of Understanding (MOU) between Santa Clara County & Santa Clara Valley Water District

Stanford

- 21a. Stanford University General Use Permit (GUP), Community Plan (CP), Mitigation and Monitoring Reporting Program (MMRP) and Environmental Impact Report (EIR)
- 21b. Stanford Protocol and Land Use Policy Agreement

Other Areas

- 22a. ALUC Land Use Plan for Areas Surrounding Airports [1992 version]
- 22b. Los Gatos Hillsides Specific Area Plan
- 22c. County Lexington Basin Ordinance Relating to Sewage Disposal

Soils

23. USDA, SCS, "Soils of Santa Clara County"
24. USDA, SCS, "Soil Survey of Eastern Santa Clara County"

Agricultural Resources/Open Space

25. Right to Farm Ordinance
26. State Dept. of Conservation, "CA Agricultural Land Evaluation and Site Assessment Model"
27. Open Space Preservation, Report of the Preservation 2020 Task Force, April 1987 [Chapter IV]

Air Quality

28. BAAQMD Clean Air Plan (1997)
29. BAAQMD Annual Summary of Contaminant Excesses & BAAQMD, "Air Quality & Urban Development - Guidelines for Assessing Impacts of Projects & Plans" [1999]

Biological Resources/

Water Quality & Hydrological Resources/Utilities & Service Systems"

30. Site-Specific Biological Report
31. Santa Clara County Tree Preservation Ordinance Section C16
32. Clean Water Act, Section 404
33. Riparian Inventory of Santa Clara County, Greenbelt Coalition, November 1988
34. CA Regional Water Quality Control Board, Water Quality Control Plan, San Francisco Bay Region [1995]
35. Santa Clara Valley Water District, Private Well Water Testing Program [12-98]
36. SCC Nonpoint Source Pollution Control Program, Urban Runoff Management Plan [1997]
37. County Environmental Health / Septic Tank Sewage Disposal System - Bulletin "A"
38. County Environmental Health Department Tests and Reports
39. Calphotos website:
<http://www.elib.cs.berkeley.edu/photos>

Initial Study Source List*

Archaeological Resources

- 40. State Archaeological Clearinghouse, Sonoma State University
- 41. Site Specific Archaeological Reconnaissance Report**

Geological Resources

- 42. Site Specific Geologic Report**
- 43. State Department of Mines and Geology, Special Report #42
- 44. State Department of Mines and Geology, Special Report #146

Noise

- 45. County Noise Ordinance

Hazards & Hazardous Materials

- 46. Section 21151.4 of California Public Resources Code
- 47. State Department of Toxic Substances, Hazardous Waste and Substances Sites List
- 48. County Office of Emergency Services Emergency Response Plan [1994 version]**

Transportation/Traffic

- 49. Transportation Research Board, "Highway Capacity Manual", Special Report 209, 1995.
- 50. SCC Congestion Management Agency, "2000 Monitoring and Conformance report"
- 51. Official County Road Book**
- 52. County Off-Street Parking Standards**
- 53. Site-specific Traffic Impact Analysis Report**

*Items listed in bold are the most important sources and should be referred to during the first review of the project, when they are available. The Analyst should refer to the other sources for a particular environmental factor if the former indicate a potential environmental impact.

LAFCO Subcommittee Meeting
on Revised Draft Agricultural Mitigation Policies
March 13, 2007
Morgan Hill City Council Chambers, Morgan Hill, California

LIST OF ATTENDEES

- | | |
|------------------------|---|
| 1. Javier Aguirre | Supervisory District 2 |
| 2. Jim Aplan | Country News |
| 3. Michele Beasley | Greenbelt Alliance |
| 4. Douglas Blackwell | Black Rock, LLC |
| 5. Erwin Boggs | Gilroy Chamber of Commerce |
| 6. Tony Burchyns | Morgan Hill Times |
| 7. David Collier | Save Open Space Gilroy |
| 8. William Faus | City of Gilroy |
| 9. Jared Hart | City of San Jose |
| 10. Melissa Hippard | Sierra Club |
| 11. Kevin O'Day | Santa Clara County Agriculture & Environmental Mgt. |
| 12. Rob Oneto | Gilroy Chamber of Commerce |
| 13. Annie Mudge | Coyote Housing Group, LLC |
| 14. Kathy M. Previsich | City of Morgan Hill |
| 15. Marc Rauser | SMPAC |
| 16. Connie Rogers | Save Open Space Gilroy |
| 17. Brian Schmidt | Committee for Green Foothills |
| 18. Vera Todorov | City of San Jose |
| 19. Carolyn Tognetti | Save Open Space Gilroy |
| 20. Colleen Valles | Supervisory District 1 |
| 21. Don Weden | Santa Clara County resident |
| 22. Kerry Williams | Coyote Housing Group, LLC |
| 23. Kristina Wyatt | Armanasco Public Relations Inc. |



Cox, Castle & Nicholson LLP
555 Montgomery Street, Suite 1500
San Francisco, California 94111-2545
P 415.392.4200 F 415.392.4250

Anne E. Mudge
415.262.5107
amudge@coxcastle.com

March 27, 2007

Commissioners of the Santa Clara LAFCo
LAFCO of Santa Clara County
70 West Hedding Street
11th Floor, East Wing
San Jose, CA 95110

Re: Proposed Agricultural Mitigation Policies

Dear Commissioners:

Thank you for the opportunity to comment on the draft Agricultural Mitigation Policies that will be before you for consideration on April 4, 2007. We are writing on behalf of the Coyote Housing Group and the Home Builders' Association of Northern California. Our comments on the February 2007 version of the revised draft policies are attached as Exhibit A.

As we have stated in the past, we believe that imposing mitigation for the conversion of agricultural land is a function of a lead land use agency, primarily cities, pursuant to CEQA, the California Environmental Quality Act. With respect to whether such mitigation should be imposed and if so, how much and in what form, LAFCOs play the role of responsible agencies, which may consult with a lead agency and provide advice and recommendations. As now drafted, staff's revised policies recognize this consultative role.

Sincerely,

Cox, Castle & Nicholson LLP

Anne E. Mudge
Partner

Coyote Housing Group, LLC

Kerry Williams
President

cc: Beverley Bryant, HBANC
Paul Campos, HBANC
Vera Toderov, City of San Jose, City Attorney's Office
Laurel Prevetti, City of San Jose, Deputy Director, Planning, Building and Code Enforcement
Joseph Horwedel, City of San Jose, Director of Planning, Building and Code Enforcement

Exhibit A

This redlined draft, generated by CompareRite (TM) - The Instant Redliner, shows the differences between -
original document : C:\Documents and Settings\rachang\Application
Data\Hummingbird\DM\Temp\DOCS_SF-#94138-v1-Agricultural_Mitigation_Policies.DOC
and revised document: C:\Documents and Settings\rachang\Application
Data\Hummingbird\DM\Temp\DOCS_SF-#94138-v3-Agricultural_Mitigation_Policies.DOC

CompareRite found 41 change(s) in the text
CompareRite found 2 change(s) in the notes

Deletions appear as Overstrike text
Additions appear as Bold+Dbl Underline text

AGRICULTURAL MITIGATION POLICIES

Background

LAFCO's mission is to encourage orderly growth and development, discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. LAFCO will consider impacts to agricultural lands along with other factors in its evaluation proposals. LAFCO's Urban Service Area (USA) Amendment Policies discourage premature conversion of agricultural lands, guide development away from existing agricultural lands and require the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. In those cases where LAFCO proposals involve conversion of agricultural lands, LAFCO's USA Amendment Policies require an explanation of why the inclusion of agricultural lands is necessary and how such loss will be mitigated.

Purpose of Policies

The purpose of these policies is to provide ~~guidance~~ advice to property owners, potential applicants and cities on how to address agricultural migration for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve ~~or impact~~ conversion of agricultural lands.

General Policies

1. LAFCO recommends provision of feasible agricultural mitigation as specified herein for all LAFCO applications that impact or result in a loss of prime agricultural lands as defined in Policy #6. Variation from these ~~policies~~ recommendations should be accompanied by information examining the ~~adequacy~~ adequacy of the proposed mitigation.
2. LAFCO encourages cities with potential LAFCO applications involving ~~or impacting~~ conversion of prime agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with these ~~policies~~ recommendations.
3. When a LAFCO proposal ~~impacts or~~ involves a loss of prime agricultural lands, LAFCO encourages property owners, cities and agricultural conservation agencies to work together as early in the process as possible to initiate and execute agricultural mitigation plans, in a manner that is consistent with these ~~policies~~ recommendations.
4. LAFCO will work with agricultural entities, the County, cities and other stakeholders to develop a program and public education materials to improve

the community's understanding of the importance of agriculture in creating sustainable communities within Santa Clara County.

5. LAFCO will review and revise these ~~policies~~ recommendations as necessary.

Definition of Prime Agricultural Lands

6. ~~Prime~~ Prime agricultural land as defined in the Cortese Knox Hertzberg Act and as used in these recommendations means agricultural land that has not been developed for other uses and meets any of the following qualifications:
 - a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification whether or not land is actually irrigated, provided that irrigation is feasible.
 - b. Land that qualifies for rating 80 through 100 Storie Index Rating.
 - c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
 - d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
 - e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

Mitigation Recommendations

7. Proposals involving the conversion of prime agricultural lands should provide one of the following mitigations at a not less than 1:1 ratio (1 acre preserved for every acre converted) along with the payment of funds as determined by the city in consultation with an agricultural conversion entity ~~(whichever applies)~~ if one is involved, to cover the costs of program administration, land management, monitoring, and enforcement ~~and promotion~~ of agriculture uses on the mitigation lands:
 - a. The acquisition and transfer of fee ownership of agricultural land to a city or an agricultural conservation entity for permanent protection of the agricultural land.

- b. The acquisition and transfer of agricultural conservation easements to an agricultural conservation entity for permanent protection of the agricultural land.
 - c. The payment of in-lieu fees to an agricultural conservation entity that are sufficient to fully fund*:
 - 1. The cost of acquisition of ~~agricultural lands~~ fee ownership or ~~agricultural~~ conservation easements over agricultural land for permanent protection, and
 - 2. The cost of administering, managing, monitoring and enforcing the ~~agricultural lands or agricultural conservation easements, as well as the costs of promoting agriculture on the mitigation lands~~ use of the agricultural lands for agricultural purposes.
- * with provisions for adjustment of in-lieu fees to reflect potential changes in land values at the time of actual ~~payment~~ acquisition.
- d. The purchase of agricultural mitigation credits from an agricultural mitigation bank approved by the city.
 - e. Variations from these recommendations should be accompanied by information explaining the basis for the variation and why the alternative mitigation is both adequate and feasible.
- 8. Agricultural lands or conservation easements ~~acquired and~~ transferred to an agricultural conservation entity should be located in Santa Clara County and be lands deemed acceptable to the city and entity.
 - 9. The agricultural mitigation should result in preservation of land that would be:
 - a. Prime agricultural land of substantially similar quality and character as measured by the Average Storrie Index rating and the Land Capability Classification rating, and
 - b. located within ~~a city's sphere of influence in an area planned/envisioned for an area planned for long term~~ agriculture, and
 - c. That would preferably promote the definition and creation of a permanent urban/agricultural edge.
 - 10. Because urban/non-agricultural uses affect adjacent agricultural practices and introduce development pressures on adjacent agricultural lands, LAFCO encourages cities with LAFCO proposals ~~impacting~~ converting agricultural lands to adopt measures to preserve adjoining agricultural lands, to prevent their premature conversion to other uses, and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses. Examples of such measures include, but are not limited to:

- a. Establishment of an agricultural buffer ~~on~~ between the land proposed for development and the land to be maintained in agriculture. The buffer's size, location and allowed uses must be sufficient to minimize conflicts between the adjacent urban and agricultural uses.
- b. Adoption of protections such as a Right to Farm Ordinance, to ensure that the new urban residents shall recognize the rights of adjacent property owners conducting agricultural operations and practices in compliance with established standards.
- c. Development of programs to promote the continued economic viability of surrounding agricultural land.

Agricultural Conservation Entity Qualifications

- 11. The agricultural conservation entity should be a city or a public or non-profit agency. LAFCO encourages consideration of agricultural conservation entities that:
 - a. ~~Are committed to preserving local agriculture and have~~ Have a clear mission along with strategic goals or programs for promoting agriculture in the areas that would be preserved through mitigation,
 - b. Have the legal and technical ability to hold and administer agricultural lands and agricultural conservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production and preferably have an established record for doing so, and
 - c. Have adopted written standards, policies and practices (such as the Land Trust Aliances's "Standards and Practices") for holding and administering agricultural lands, agricultural conservation easements and in-lieu fees and are operating in compliance with those standards.

Timing and Fulfillment of Mitigation

- 12. LAFCO prefers that agricultural mitigation be in place at the time of LAFCO approval or as soon as possible after LAFCO approval. The mitigation (as detailed in the Plan for Mitigation) should be fulfilled no later than at the time of city's approval of ~~the a~~ final map, or issuance of a grading permit or building permit, whichever occurs first.
- 13. Cities should provide LAFCO with information on how the city will ensure that the agricultural mitigation is provided at the appropriate time.
- 14. Cities should provide LAFCO with a report on the status of agricultural mitigation fulfillment every year folloing LAFCO approval of the proposal until the agricultural mitigation commitments are fulfilled.
- 15. The agricultural conservation entity should report annually to LAFCO on the use of the in-lieu fees until the fees have been fully expended.

Plan for Mitigation

16. A plan for agricultural mitigation that is consistent with these policies should be submitted at the time that a proposal impacting agricultural lands is filed with LAFCO. The plan for mitigation should include all of the following:
 - a. ~~An~~ A draft Agreement between the property owner, city and agricultural conservation entity (if such an entity is involved) that when executed commits the property owner(s) to provide the mitigation for the loss of prime agricultural lands and establishes the specifics of mitigation. The agreement should specify:
 1. The type of mitigation that will be provided in order to mitigate for conversion of agricultural lands. (purchase of fee title or easement or payment of in-lieu fees or purchase of mitigation credits)
 - ~~2. The~~ 2. The city or agricultural conservation entity that will be involved in holding the lands, easements, or in-lieu fees.
 3. The acreage that would be preserved through mitigation and /or the amount of in-lieu fees that would be paid (with provisions to adjust fees to reflect land values at time of ~~payment~~ acquisition) along with the methodology adopted by the entity for calculating the in-lieu fees.
 4. The location of the mitigation lands, when possible.
 5. Information on the specific measures adopted by the city as encouraged in Policy #10 (mitigation for impacts to adjacent agricultural lands)
 6. The time-frame within which the mitigation will be fulfilled, which should be no later than at the time of city's approval of the final map, or issuance of the grading permit or building permit, whichever occurs first.
 7. The effectiveness of the mitigation agreement is to be contingent on LAFCO approval of the proposal.
17. Upon LAFCO approval of the proposal, the agreement should be recorded with the County Recorder's office against the property to be developed.
18. Applicant should provide all other supporting documents and information to demonstrate compliance with these policies.

----- COMPARISON OF HEADERS -----

-HEADER 1-

-HEADER 2-

----- COMPARISON OF FOOTERS -----

-FOOTER 1-

-FOOTER 2-

A

STEVE TATE
Mayor

March 16, 2007

Santa Clara County Local Agency Formation Commission
County Government Center, 11th Floor, East Wing
70 West Hedding Street
San Jose, CA 95110

Re: Proposed LAFCO Agricultural Mitigation Policies

Dear LAFCO Commissioners:

I am writing on behalf of the City of Morgan Hill regarding your draft policies concerning mitigation for the loss of prime agricultural lands. First, I would like to thank the Commission for extending the review process for the policies and providing opportunities for meaningful input by all stakeholders. I am particularly pleased that you conducted two workshops in the South County area where most of the remaining County agricultural lands are located.

I would also like to thank the Commission and staff for the changes that have been made to the policies in response to stakeholder comments. The change to the definition of prime agricultural land ensures the policies are consistent with the Cortese Knox Hertzberg Act and elimination of the time requirements for implementation of mitigation measures will make the policies more realistic and feasible. Changing the policies from mandatory to advisory is a major improvement that the City wholeheartedly endorses. I understand that although the policies are proposed to be advisory, LAFCo will utilize them in evaluation of future applications involving prime agricultural lands. In recognition of this, the City has the following additional comments. The comments correspond to the numbering of the draft policies.

Policy 1:

This policy indicates that agricultural mitigation should be provided for all LAFCo applications involving prime agricultural lands. Yet, the Background section of the policies seems to indicate that the policies would apply to expansion of Urban Service Areas. Morgan Hill previously provided comments indicating that we do not believe the policy should apply to Out of Agency Service Requests. This policy or the Background section of the policy document should be amended to clarify the types of applications to which they apply.

This policy recommends that mitigation be provided for the loss of all prime agricultural land. It has been broadened to provide for the possibility that some form of mitigation that is not consistent with policies may be appropriate provided that a (presumably) acceptable explanation is given. Morgan Hill concurs that the same level of mitigation may not be appropriate in all circumstances and therefore supports the added flexibility. However, this Policy and Background statement does not appear to allow for the possibility that under certain circumstances mitigation may not be appropriate or needed.

The City believes that this additional flexibility is warranted. For example, it is very possible that an annexation proposal could include 25 acres of prime agricultural land. The annexation could include two 10-acre vacant parcels and one 5-acre hobby farm that includes a house. Mitigation for the development of the two 10-acre vacant parcels may be appropriate. However, mitigation for the hobby farm may not seem warranted. This policy should be amended to allow for possibility that no mitigation may be warranted.

Policy 3:

Similar to comments provided for Policy 1, this policy should be amended to provide the possibility that if mitigation is not involved, plans for mitigation would also not be necessary.

Policy 7:

This Policy would require mitigation for loss of all prime agricultural lands at a ratio of 1:1 or greater. Policy 1, however, allows for the possibility of variation from the policies and, presumably, the 1:1 mitigation minimum. Morgan Hill supports this flexibility as we do not believe the “one size fits all” approach is appropriate. There may be instances in which the prime agricultural portion of a site is small and/or surrounded by residentially developed properties. Mitigation for the loss of such agricultural land should not be of same magnitude as the loss of large agricultural parcels at the fringe of the community and adjacent to agricultural uses. Also, there is a difference between the quality of an area that may have prime soils but has not been farmed in decades and areas that are presently used for agricultural purposes.

The State Department of Conservation encourages use of the Land Evaluation and Site Assessment (LESA) model to evaluate the significance of agricultural land conversion. This model uses six different quantitative factors to evaluate the significance of the potential loss of agricultural land. LAFCo should recognize the use of this and/or other models for evaluation of the significance of the loss of agricultural lands and the appropriate level of mitigation to be provided.

Morgan Hill is also concerned that the feasibility of the draft policies has not been adequately analyzed. The California Environmental Quality Act defines feasible as being “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.” From a legal standpoint, the City is concerned that the cost of mitigation may not meet the legal test of “rough proportionality.” Much of the unincorporated agricultural land in the City’s sphere of influence has been subdivided into parcels of 10 acres or less in size. Current County policy would allow for construction of a house on each of these properties. Given these parcel sizes and potential for house construction on each, the value of this vacant agricultural land to be between \$60,000 and \$100,000 per acre. These land values may make the cost of acquisition of conservation easements or fee title higher than can be legally justified.

From a practical standpoint, the City is concerned that implementation of the policies may not result in the successful preservation of agricultural lands within a reasonable period of time. The draft policies assume that one-half of existing vacant lands in Santa

Clara County that meet the definition of "prime agricultural lands" will be placed into permanent agricultural use. We are unaware of any analysis to determine if that amount of land would be available over any period of time for mitigation purposes. It would seem prudent to evaluate the practical feasibility of implementing the draft policies prior to their adoption.

Policies 8 and 9:

Policy 8 indicates that mitigation lands should be located in Santa Clara County. Policy 9 suggests that mitigation lands be located within the City's sphere of influence. We would like mitigation land to be provided within our sphere, but as indicated above, are concerned that the cost of mitigation in that area may be prohibitive. The option of buying credits from a bank, under a program that preserves the most viable agricultural lands in the County should be explored.

Policy 10:

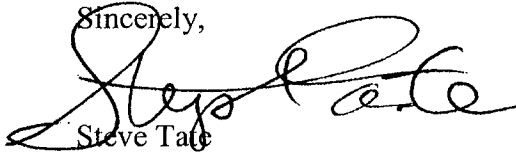
Subsection "a." of Policy 10 recommends establishment of buffers on land proposed for development where such land is adjacent to agricultural uses. Morgan Hill's experience is that such buffers are appropriate and effective if the adjacent agricultural uses are permanent. In instances where the adjacent agricultural uses may convert to urban uses in the future, permanent buffers are an inefficient use of land and counterproductive. In these situations, temporary buffers or phasing of development to delay development on land adjacent agricultural uses is a more appropriate approach. We recommend this policy be amended to recognize that in some cases temporary buffers may be appropriate.

Policies 14 and 15:

These policies recommend annual reporting to LAFCo on the progress being made to fulfill the mitigation requirements. Policy 17 recommends that agreements between cities, property owners and agricultural conservation be recorded upon LAFCo approval of applications. Morgan Hill believes that recordation of the mitigation requirements provides adequate assurance to LAFCo that the mitigation will be implemented. As a result, we do not believe that annual reporting is necessary.

Thank you for the opportunity to comment on the draft policies. We believe that these changes will improve the policies and result in a workable strategy for agricultural land preservation in the County.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Tate", is written over the printed name.

Steve Tate
Mayor

C: Council Members
Ed Tewes, City Manager



Friends of the Coyote Valley Greenbelt (FROG)

March 12, 2007

To: Santa Clara County Local Agency Formation Commission (LAFCO)

From: Trixie Johnson, Friends of Coyote Valley Greenbelt (FROG)

RE: LAFCO's DRAFT AGRICULTURAL MITIGATION POLICIES (February 2007)

FROG Supports Latest Draft of LAFCO Agricultural Mitigation Policies

I am writing on behalf of the Friends of the Coyote Valley Greenbelt (FROG) to express our support for LAFCO adoption of the February 2007 version of LAFCO's draft agricultural mitigation policies.

FROG believes that the LAFCO staff has been responsive in making revisions that address, in reasonable and effective ways, the major issues that have been raised by various stakeholders during the public review and outreach process.

We encourage LAFCO to proceed with adoption of these policies at its April meeting.

Some Issues May Need to be Addressed at Later Date

The current draft policies are written in a way that makes them primarily applicable to proposed urban service area expansions that involve only one property owner. We understand that this is how most urban service area expansions are brought to LAFCO.

While that may now be the norm, we anticipate that eventual proposals to expand San Jose's urban service area boundary to include the portions of Coyote Valley currently being planned for urban development are likely to involve numerous property owners. That is a situation that the draft policies currently being considered by LAFCO may not adequately address, due to the potential complexities of creating multi-party, contractual agreements.

But, since it appears that LAFCO may need to review some of its other policies when the issue of bringing additional areas of Coyote Valley into San Jose's urban service area comes before it, FROG believes that would also be the appropriate time to review LAFCO's agricultural mitigation policies as they may apply to proposed urban service area expansions involving multiple owners.

Effectiveness Will Still Depend on LAFCO's Commitment and Resolve

The Friends of the Coyote Valley Greenbelt (FROG) commends LAFCO and its staff for addressing the important and timely topic of mitigation for the loss of agricultural lands to urban development. We are proud of the leadership that the Santa Clara County LAFCO is providing.

We also wish to remind you, however, that the ultimate success of these policies will depend not just on their adoption, but also upon LAFCO's commitment and resolve to implement them effectively when specific urban service area expansion proposals come before it.



March 8, 2007

LAFCO
County of Santa Clara
70 West Hedding Street, 11th floor
San Jose, CA 95110

Attention: Dunia Noel

Subject: LAFCO's Agricultural Mitigation Policies

Dear Ms. Noel:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Negative Declaration for LAFCO's Agricultural Mitigation Policies. We have no comments on the proposed project at this time.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

A handwritten signature in black ink, appearing to read "R Molseed", is written over the typed name.

Roy Molseed
Senior Environmental Planner

RM:kh

